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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,667	04/16/2004	Qiang Fu	1863.023US1	9604
21186	7590	02/07/2007	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			ZEMEL, IRINA SOPJIA	
		ART UNIT		PAPER NUMBER
				1711
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/826 667

EXAMINER
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ART UNIT	PAPER
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20070202

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Commissioner for Patents

DETAILED ACTION

Election/Restrictions

Amended claims 1, 3-8 and newly submitted claims 21-28 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims as amended are drawn to a mesoporous material comprising a mesoporous network comprising modified mesoporous microparticles and a stimuli responsive polymer grafted from the modified pores. The originally presented claims were drawn to mesoporous material comprising porous network with a stimuli responsive polymer dispersed within the porous network. The invention as originally presented and the invention as claimed now are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions are not disclosed as capable of use together and they have different designs. The originally claimed polymer is claimed as dispersed in the porous (not mesoporous) network which implies that the polymer is not connected (as it is dispersed) to the network. (Note that the term "dispersed" does not appear in the amended claim as being deleted from the claim or remaining in the claim). The claims as amended require polymer being grafted from the pores of mesoporous particles (i.e., attaches and not dispersed). The amended claims are, thus, drawn to a very different invention from the originally claimed invention. (in addition, newly presented claims are drawn to plurality of species requiring further election such as network architecture)

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, all pending claims are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at

866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ISZ

*IRINA ZEMEL  
PRIMARY EXAMINER*  
*Irina S. Zemel*

Irina S. Zemel  
Primary Examiner  
Art Unit: 1711